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SPEECH

OF

HON. W. McWILLIE, OF MISSISSIPPI,

IN THE HOUSE OF REPRESENTATIVES, MARCH 4, 1850,

In Committee of the Whole on the state of the Union, on the President's Message communicating the Constitution of California.

Mr. McWILLIE said:

Mr. CHAIRMAN: I do not rise for the purpose of replying to those who have preceded me in this debate, nor is it my intention to make a party speech. I may not even refer to the two great national parties which have heretofore divided this country. A question paramount to all considerations of party should now occupy our thoughts. The permanency of our free institutions is the subject of our discussion. Yes, sir, I believe as much as that I now address you, that the Union is in danger. I look around me and I can see no point of safety. On the one hand I see nearly all the northern States being arrayed against the South on the slavery question; on the other, I see the South, State after State, assuming the attitude of resistance and defiance. Sir, I know the past of my country—I see and deprecate the present—but to me, at least, shadows, clouds and darkness rest upon the future. I know not what that future is to be, but I do know that its complexion in a great degree is to be taken from the action of the present Congress. I believe that our deliberations in a national point of view are more important than those of any deliberative assembly that has taken place since the adoption of the form of government under which we now live. The Union of these States is the subject of our discussions. Sir, I know not how to approach it; its magnitude and importance overwhelm me. Even when sustained by the promptings of duty and of patriotism, I would not dare to enter upon this discussion were it not that I know that the genius of my country, liberal as the God I worship, only requires my best endeavors when sanctified by the best affections of my heart. Yes, sir, my country has my heart; I love it—I love it all—North and South, East and West. I love it, because it contains the graves of my ancestors, and is the home of my wife and my children; I love it, because in it I have a common history, a common inheritance, a common glory, a common liberty, and a common hope. I love it, because it was founded in the toil and suffering, and blood of the Revolution. I love it, because our fathers, in their wisdom, joined us in political Union. I trust, I hope, I pray, that neither the ambition of the few, nor the madness of the many may ever be able to sunder these States, which God had seemed to have joined together. It is for you, my brethren of the North—yes, I will yet call you brethren—it is for you to determine what are to be our future relations. The agitation comes from you; you are the actors, and upon you rests the responsibility. The South asks but equality and justice—she can never take less. Sir, I have said that the Union is in danger. For proof of this fact I need not

go beyond this hall. The speeches that have been made, the impediments to organization that have occurred, and the whole action of the House, must point every sane mind to the dangers that threaten us.

But, Mr. Chairman, it is not only here that we see this agitation and excitement: it has entered the social circle, and is breaking down all those kindly feelings which ought to exist between members of the same Confederacy. It is impossible, from the very constitution of our natures, that we can love those who make it a business to revile and traduce us. And you know that it is the constant habit of many at the North to speak of us even as worse than pirates. In your public press, in your public assemblies and churches, our institutions are the theme of constant denunciation. They are spoken of as a national disgrace. Why, sir, even already, so far as the Union of the States was dependent on the union of the Churches, we have in some of them actual, practical dissolution. We have the Methodist Church North, and the Methodist Church South. The same division has taken place in the Missionary Baptist Church—and it is with difficulty that the union of the Presbyterian Church is retained. Are not these facts portentous? Ought they not to warn us of danger? The same causes that have made a Church North and a Church South will, if not arrested, make a Confederacy North and a Confederacy South—like causes produce like effects. Discord separated the Churches—discord will separate the States.

But it is not only here, in the halls of legislation, in the social circle, and in the churches, that difficulty exists, but even in the election of our present Chief Magistrate, it was an element of political power, and so great was the hostility of the two sections of the Union, that he had to be supported at the North as the anti-slavery candidate, and at the South as the pro-slavery candidate. In other words, so great was the hostility of the sections, that the people had to be deceived, that politicians might be enabled to induce them to act together. Sir, in consequence of this hostility of the North and South, in the last Presidential election, there was no expression of the popular will, on the most important and vital question that has ever agitated this nation. In other words, the people, by their suffrages, expressed no opinion. They lost the control of their own Government; and this is the reason why the whole executive department of our Government now stands dumb in the presence of the power of abolition. Sir, are not facts like these sufficient to alarm every patriot? But, in addition to all this, you have been told, by the member from North Carolina, [Mr. CLINGMAN,] that no further

legislation is to be had in support of Government, unless these agitations be stayed; and that otherwise, here and now, this Government shall perish. This comes from the Whig side of the House, which claims to be the Conservative; and from the Whig and Conservative State of North Carolina. I am no alarmist. I appeal to no man's fears; but I do appeal to the good sense and patriotism of this House and this nation. I warn them that this Union is in danger; and I tell them that the South is now prepared to present the alternative of domestic tranquillity, equality and justice, or separation. Sir, the time has come when every man who loves the Constitution of his country, must be prepared to stand by, or, if necessary, to perish for it. Yes, sir; the time has come when the nation expects every man to do his duty. The time has come when thoughts of patriotism, and such thoughts alone,

"Along our hearts responding strings should run,
Nor let a tone there vibrate but the one."

Yes, sir, the man who, on an occasion like the present, could think of himself or his prospects, would desert the flag of his country in the hour of battle, or would sell his country's liberty for a consideration. Every man who has given his serious attention to this question, must now be satisfied that it has reached a point at which delay in its adjustment must be accompanied with the greatest danger. Its progress is onward—and the nation even now trembles beneath its tread. The time was, when this agitation was confined to a few fanatics; but now it has become an element of political power and sectional aggrandizement, utterly incompatible with the existence of the Union. Then it was but a speck upon our political horizon—"a little cloud not bigger than a man's hand;" but it has grown and spread, until now it covers near all the sky. The lightnings flash amid its tempestuous folds—the thunders roll along its mighty base—and the temple of our Union and our liberties is shaken as if by the upward heavings of volcanic fire. The nation is alarmed, the star of our destiny is being darkened, and the glorious light of liberty and of hope is paling upon our path, I fear, forever. Yes, sir, the danger is most imminent; already the instruments of revolution are at work. Nearly, if not quite all, the southern States, by conventions of the people or by their Legislatures, have declared their fixed and unalterable purpose of resistance, in the event of further aggression—and a Southern Convention is already preparing to meet at Nashville, in June next; while in the northern States, the Legislatures of near all of them are passing the most offensive and aggressive resolutions, instructing their Senators in the other end of this Capitol, and requesting their Representatives on this floor to execute these resolves. While at the same time the Abolition societies and conventions at the North—the suppers and miners in this array against the South—are urging disunion upon the people, and denouncing our glorious Constitution "as a league with Death and a covenant with Hell." Sir, madness rules the hour, and the South, to appearance, will be left with no alternative but disunion or unconditional submission. If this alternative is forced upon us, we know our duty to ourselves and our posterity, and we will dare to do it—even though it should dissolve the Union. This is strong language; and I am aware that there are those who will attempt to brand me as a disunionist; but, sir, I repel the charge as unfounded and unjust.

If I know myself, sir, there has never been one day in my existence in which I did not stand ready to peril my life, if necessary, in defence of this Union. Yes, sir, I love the Union, but not as it is loved by the member from Ohio, [Mr. Root,] or the member from Massachusetts, [Mr. Mann,] or the member from Pennsylvania, [Mr. Stevens,] or the member from Illinois, [Mr. Bissell.] They love the union of these States just as despotic and cruel Austria loves the union with Hungary. They love it so well, that to preserve it they would give the people of the South to the sword, and our beautiful fields, and villages, and cities to the flames, accompanied by all the horrors of servile and civil war. God deliver the South from such union and such patriots. Yes, you would do just as Austria did—you would call in the aid of Russian butchers. Such are your attachments to the Union, and such your tender mercies to the South. Sir, if this be the Union that the North loves, I must say it has my utter detestation and scorn. You claim us as your slaves already. The Union that I love is the union of equality, and justice, and fraternity—the Union of the Constitution. Yes, sir, the Constitution is the Union. We have no other bond of union. Ours is a Union of law and not of force. It had its origin in the common consent of the people. It was founded on principles of justice; and every encroachment upon the Constitution is an attack upon the Union itself. I appeal to members of this House, and implore them to respect its guarantees. "We ask nothing but what is right—we will submit to nothing that is wrong." We would disgrace the ancestry from which we sprung if we were to submit to the aggressions of unauthorized power. We would be unworthy the name of Anglo-Saxons. Our fathers resisted the duty of a penny a pound on tea. It was not the amount of duty, but it was the power claimed by Great Britain to legislate for us in all cases whatsoever. It was the right which she asserted to tax Englishmen without representation. With us the question is not only one of principle, as it was with our fathers, but it is a question of existence. We should bear in mind what has ever been the course of power when led on by the fell spirit of fanaticism. We have an example of it in the island of St. Domingo, once the most wealthy and beautiful isle of the Indies. Now it is almost buried in barbarian darkness—a waste and a desert. There Abolition carried fire to every dwelling, and quenched the flames in blood. Sir, such may be the fate of the southern States if they yield upon this question. Fanaticism has never yet let go its hold upon its victim, unless when compelled by force or fear.

Mr. Chairman, I am aware that there are still some, I hope many, men at the North, who have not yielded to this fanaticism; and who, if they could, I have no doubt would gladly arrest this aggression. But so many of both political parties have more or less committed themselves to the doctrines of Free Soilism, that I must say, that when it comes to voting on this floor, our cause appears to be almost, if not quite hopeless. But I will not even yet despair of the Republic, and will continue to hope that at least those on this side of the House who in times past have stood by the Constitution, will continue to do so; and I trust that, on the other side, there may be some who will be prepared to do us justice, and save the Union. For I repeat, that I do not believe that this Union can survive the disfranchisement and

degradation of the southern States. Sir, I do not say this in the language of threatening. The South makes no threats; she simply tells you that we must respect each other's rights or separate—that we must agree better than we now do, or we ought to part company. The South loves the Union, but she has never yet thought of waging war against the North for the purpose of effecting a change of public sentiment; nor has she yet proposed in her extremity of attachment to the Union to ravage one half the States with fire and sword. All we say is, that we will assert our rights, and that if it becomes necessary, we will meet force with force. Yes, sir, we of the South will resist aggression if it be forced upon us—we know the price of freedom, and if necessary we will pay for it. We know that no people have ever long been free, unless they stood ready to defend their rights—the conservators of their own privileges. In ordinary times the Constitution is a sufficient protection, but in times like these, when prejudice and passion and the thirst of sectional power control in the halls of legislation, constitutions are valueless, only as they define the boundaries of power and of privilege, and teach us where resistance should begin, and where aggression must cease. The privilege of bearing arms, and the courage to use them, is at such times of more value than all the constitutions that have ever been written. No people can be long much misgoverned who have arms in their hands and the knowledge of their use. We know that the Tree of Liberty has ever been watered with the blood and manured with the bones of patriots—all the liberty now upon the earth has been purchased by the blood of our race. If necessary, we will do as our fathers have done before us.

Sir, I would ask why do our northern brethren force this alternative upon us? Why do you urge upon us a state of facts utterly hostile to the Union and in violation of the Constitution? Has not our Government at least to you answered the purposes of its creation? Have we not grown and prospered beyond any people ever upon this earth? Have not the lines fallen to us in pleasant places, and have we not a goodly heritage—the heritage of liberty, equality, and abundance? We have already grown from thirteen to thirty States; and have territory sufficient for many more. Our eagles, from their eyrie on the Rocky Mountains, dip their wings in the Atlantic and Pacific oceans, and our banners float upon the St. Lawrence and the Rio Grande. We can almost say, the continent, the boundless continent is ours. A destiny so great, so glorious has never been granted to any people. I would again ask, are these blessings all to be sacrificed? I trust not: there is, however, but one way in which they can be retained, and that is by respecting the guarantees of the Constitution, and giving even-handed justice to the South. We have never asked more than equality with our sister States—we have ever acted in that spirit of concession and compromise in which the Constitution was adopted; and we have never once given to the North cause to complain of an aggressive spirit; nor have we ever violated one condition of any compromise which we have made. We have ever been generous and forbearing. Virginia yielded for the sake of harmony and equality all the territory north of the Ohio as free States which was previously slave territory—we divided Louisiana and Texas with you, both of which were slave territory—and in the session of Congress before the last, we offered almost unani-

mously to accept the Clayton compromise bill, and we received but twenty-two Democratic votes and not one Whig vote from the North. I would ask what did that bill give us? Why nothing but simply the right to try the constitutional question at issue between us, in the courts of the Union. Even this you denied us and shut us out from the courts of justice. And at the last session of Congress you refused to pass Walker's amendment to the appropriation bill, which simply extended the provisions of the Constitution to New Mexico and California—even this you refused us. I submit to the candor and justice of this House and this nation, if we could have asked or taken less? You deny to us the guarantees of the Constitution, and still expect from us submission. This is impossible. Submission to acknowledged wrong, would be social and political degradation. We cannot be brought to this.

Mr. Chairman, I have charged against the North that she has disregarded her constitutional compact, and that she invades our chartered rights. This is a circumstance calculated to excite the most melancholy and alarming reflections. But it is not the less true. Heretofore our contests have been as to the effect of measures; but now the Constitution, the ark of our political covenant, which contains the plighted faith of the States and of the people, is the object of attack. Yes, sir, the Constitution by which we live, and for which, if necessary, we should be prepared to die, has been despised and rejected in reference to the rights of the slave States, and every invention of the imagination is set up in opposition to it. I presume that there is not a man within the sound of my voice who does not know that the last clause of the 4th article of the Constitution (in reference to fugitive slaves) is now a dead letter. That article requires that such slaves shall be delivered up on claim of the owner—thereby making it the duty of the State to attend to the delivery. This most, if not all, of the free States have refused to do, and some of them have nullified the Constitution by the most prohibitory laws on the subject. This clause of the Constitution is in the same words as the clause immediately preceding it in reference to fugitives from justice, and that has generally been executed in good faith, thereby showing that there is no ground for explanation on the plea of difference in construction. This is a point in which the violation of the Constitution has been so flagrant as to have no defenders. Then, if the Union be but the creature of the Constitution, it follows as a corollary, that here is practical disunion. According to the law of nations, the violation of one article of a treaty by one of the parties to it, is a violation of all, or, in other words, discharges the other contracting party from any obligation to respect its other provisions. Thus in our compact of Union between the several States. This is one cause of complaint established, and not denied by our northern brethren. But we have many more. The constant agitation of the slavery question in this District, with a view to its abolition here or elsewhere, is of mischievous tendency, and destructive of the domestic tranquillity of the States, (which was enumerated, as one object of the Union;) and if it were to be carried into effect would be in bad faith to the slave States generally, and to the States of Virginia and Maryland in particular; and would, in my opinion, be a violation of the Constitution. I am aware that many able men have given a different construction, and that, under the clause in the 8th article of the

Constitution, giving to Congress the "right to exercise exclusive legislation in all cases whatsoever" in this District, the power may be plausibly claimed; but I cannot think that it can be justly claimed. Those who claim the power for Congress, do so on the ground that exclusive legislation is synonymous with unlimited power of legislation. I think this is a misapprehension. For instance: this Congress and the State Legislatures have exclusive legislative power over the States and the people of this Union. But they have not all power. They have only certain delegated powers, and the balance remains in the keeping of the people, the safest and best depository of power. It is manifest that the grant of exclusive power of legislation as given in the Constitution, does not mean unlimited power, but is simply the grant of power under the general provisions of the Constitution, and must be exercised simply with the view of executing the objects of the grant. Either this is the true construction of the grant, or in this District Congress has unlimited power—even the power to sell every freeman into perpetual slavery. But upon any fair view of the Constitution it is impossible to maintain this construction of unlimited power—for by the Constitution "the trial of all crimes except impeachment shall be by jury." I hold that Congress cannot abolish the trial by jury in this District. And further, a conviction in this District for treason could not "work corruption of blood," because the Constitution expressly says "that no attainer of treason shall work corruption of blood, or forfeiture except during the life of the person attainted." Here is another restriction of the power of Congress in this District. But such restrictions are too numerous for me now even to refer to them. See the 1st article of the Amendments to the Constitution, which is in the following words: "Congress shall make 'no law respecting an establishment of religion or 'prohibiting the free exercise thereof; or abridging 'the freedom of speech, or of the press, or the right 'of the people peaceably to assemble, and to petition 'the Government for redress of grievances."

Is there any one here who, in the face of this express provision of the Constitution, would contend that Congress has the right, in this District, to establish a Church, and prescribe a form of worship, and fix a creed; or to abridge the freedom of speech, or of the press, or the right of petition? If not, then the power of Congress has limitations, and these are fixed by the objects of the grant and general principles of the Constitution. In fact, all of the twelve articles contained in the Amendments to the Constitution but one, are limitations upon the power of Congress here, and in the States and Territories. In truth, the whole theory of our Government, State and Federal, is predicated upon constitutional restraints of power. There is no power in this country which is not limited, except the power of the people; and even this ultimate power has to be exercised according to certain prescribed forms, or it is revolutionary.

If the conclusions which I have stated be not true, then every citizen of this District has no other tenure for his life, liberty, or property, but in the will of Congress! The supposition of such a state of facts is monstrous, and would be abhorrent to every American heart.

If, then, it be conceded, as it must be, that the power of Congress in this District is limited, I would ask, in what is that limitation to be found? I think the natural answer must be, that it is to be

found in the object and nature of the grant. These were plain to the minds of the framers of the Constitution, who simply desired to confer upon Congress, in the Ten Miles Square, such power as would enable them—freely and without restraint—to carry out all the other provisions of the Constitution in which this particular provision is contained. Can it (by any sane mind) be contended, that the grant of exclusive legislation in this District was intended to confer upon Congress any power outside of the Constitution? The supposition is absurd. The grant was made simply that Congress, and the other departments, might at all times be in a situation to perform their duty under and by virtue of the Constitution.

No one will have the impudence or folly to contend, that the abolition of slavery here or elsewhere, was one of the objects of the grant. If it was not, then it follows, necessarily, that no such power exists in Congress. And I think I am fortified in this view of the subject by the fifth article of the Amendments to the Constitution, which contains the following clause: "Nor shall private property be taken for public use without just compensation." The Constitution thus negatives the idea that private property can be taken for any other purpose but for public use, and then upon just compensation. Abolitionism would take it without just compensation, and for no public use. I might follow this subject further, but I will refrain, by simply saying, that I am satisfied that Congress has neither the right to abolish slavery in this District, nor to appropriate the public money to any such purpose as compensating the owners of the property for its value. I suppose, even in these days of latitudinarian construction, it will not be denied that there is a limitation of the objects to which money may be appropriated by Congress.

The next proposition to which I shall call the attention of the committee is, the question of slavery, as connected with the territories. This is a fearful question—one which will, and which ought to dissolve this Union, if the claims set up by the North are to be insisted upon. I will ask, sir, what are these claims? Why, they are simply that the free States shall take for their exclusive use and benefit the whole of the territory now owned, or which hereafter may be owned by the United States—excluding the slaveholding States from all participation in the territory acquired by the common blood and treasure of all the States—with the resulting consequence, that slavery is to be confined to its present limits, and that no slave State shall ever hereafter be permitted to enter this Union. This would be a most iniquitous proposition, even if it had the sanction of the Constitution upon its side; but when it is reflected that it is as gross a violation of the Constitution, as it is of the common principles of honesty and justice, how can it be expected that the southern States will submit to it? They ought not—they cannot—they will not.

Mr. Chairman, I intend to speak plainly, because I think we ought to understand each other. I will, then, say that my mind is deliberately made up to the conviction that the South ought not to take less than the Missouri compromise, with such guarantees as this Government can give that the agitation of the slavery question shall cease in reference to this District, and in Congress generally, and that the non slaveholding States shall be required, either by the action of Congress or the action of their State Legislatures, to abide by

and execute that article of the Constitution which makes it the duty of those States to deliver up runaway slaves. These questions, sir, must be settled now if we desire to save this Union. Any attempt to defeat the just rights of the South will, in my opinion, as certainly destroy this Union as that I now address you; and he who votes for the abolition of slavery in this District, or the exclusion of the South from a just participation in the territories, may rest assured, that if his vote is consummated by legislation, that he votes a dissolution of the Union.

Mr. Chairman, I have stated that, in my view of this question, Congress has no power to prohibit slavery in the territories; and in support of this position I call on those who claim the power, to show any article of the Constitution which confers it. I aver it gives no such power; and if it is not in the Constitution it cannot be exercised by Congress; because the Constitution uses the following very explicit language in reference to our powers: The 10th article of the amendments to the Constitution is in the following words: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people." This article of the Constitution is an estoppel to the exercise of this power, unless it can arise by implication from some of the express grants of power. This is admitted by all—even those who claim the power. In this state of the argument we are met by the allegation that Congress has the right to acquire territory by treaty, and the right of acquisition must, from the necessity of the case, be followed by the right to govern. This is true to a certain extent. That is, Congress has the right to govern to the extent of the necessity, but no further; and this necessity, in my opinion, is limited by the legislation necessary to preserve the property of the United States in the territories, and the establishment of such civil governments as may invite settlements to be made and are sufficient to protect the settlers in the enjoyments of life, liberty, and property, during their territorial pupillage preparatory to their becoming States. I think beyond this the less power Congress exercises the better; and this certainly fills up the implication arising from the necessity of the case. The necessity is the proper limitation of the power, and whenever the necessity ceases the power also ceases. And I presume that no one will contend that the prohibition of slavery is necessary either to the preservation of the property or the protection of the citizen. If so, the argument drawn from the necessity of the case falls to the ground, and the power with it. There are some persons who claim this power to exclude slavery from the territories under the 3d section of the 4th article of the Constitution, which is in the following words: That is, the "Congress shall have power to dispose of, and make all needful rules and regulations for, the territory or other property belonging to the United States." This is certainly a provision intended for the territories as property, as it distinctly puts the territories on the same footing with other property belonging to the United States; and only give to Congress the power to make the needful rules and regulations for its protection and sale; and certainly no member of the Convention that framed the Constitution ever could have imagined that a general and unlimited right of sovereign jurisdiction was covered up under this grant—and that, in addition to this, it was to influence the relations of slave-property

in all the slave States of the Union. The supposition is not warranted by the facts of the case, for certainly it will not be contended that the prohibition of slavery is one of the needful regulations in disposing of the land lying in the territories; and no power is granted but such as was needful in reference to the territories as property.

I believe that in some cases this right of extending a slavery prohibition to the territories is attempted to be derived from the last clause of the eighth section of the first article of the Constitution, which reads as follows:

"Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

Now, Mr. Chairman, it will behoove those who insist that this power is necessary and proper, to ingraft it upon some one of the expressly-granted powers. This cannot be done, as there is no such grant in the Constitution, and it is absurd to suppose an incident without a principle, or an effect without a cause. You might as well suppose a child without a parent. Sir, this claim of power may be justly said to be *filii nullius*. It is one of the bastard progeny, born from constitutional prostitution, and should never be recognized as legitimate. Whenever a power is claimed without a grant, under the plea of necessity, it ought to be viewed with suspicion, as this has ever been the plea of tyrants. And no such implication arises unless it be indispensably necessary to the execution of some granted power. If we give any other meaning than this to the clause now under consideration, the Constitution would not be worth the paper it is written on.

Sir, a few days since I was not a little surprised to hear the great Senator from Kentucky, [Mr. CLAY,] in the other end of this Capitol, assert the monstrous doctrine that this Government derived its power over this subject from Mexico. And he claims that because Mexico, or the Government of Mexico, had this power, that, *ex necessitate*, this Government must now have it, as we had acquired the country from Mexico. This is the first time that I had ever heard that this Government could derive authority from any other source than our own Constitution. He says Mexico parted with the sovereignty, and that as it was parted with, it must be vested in this Government. This is a monstrous doctrine—one that substitutes this Government for the States and the people of this Union. Sir, this Government is neither the States nor the people of this Confederacy. It is but the agent, the servant, the creature of the States. It is but the trustee, and the States are the *cestui que trusts*. Mexico transferred to the United States, and not to the Government of the United States. If this Government received all the authority in New Mexico and California that Mexico parted with, it is an absolute despotism—for I believe it is well understood that Mexico has a government without limitation of powers. The gentleman referred to said, "Mexico could have abolished slavery, or have introduced slavery either into New Mexico or California. Now that power must have been ceded. Who will deny that?" And he said further, that as none of the prohibitions upon the power of Congress contained in the Constitution "restrain the exercise of the power of Congress on the subject of slavery, the powers of Congress are co-extensive and co-equal with the powers of Mexico prior to the cession." This is, I trust, the first time, and I hope

it will be the last, that a foreign nation will be looked to as the source of the powers of this Government, or that it will be pretended that this Government has all the powers which the Constitution does not deny to it. This is an assumption in the very teeth of the Constitution, which declares that Congress has no powers but those granted to it. That I may do the gentleman no injustice, I will make one other extract from his speech, which is as follows:

"With regard to the treaty-making power, all who have had occasion to examine into its character, and into the possible extent to which it may be carried, know that it is unlimited in its nature, except in so far as any limitations may be found within the Constitution of the United States; but upon this subject there is no limitation which prescribes the extent to which the power shall be exercised."

Here is again the distinct avowal, that as the Constitution has not withheld power from Congress, that consequently it has the power which is not withheld. This is the most latitudinarian construction of the Constitution that I have ever met with—and against which I enter my solemn protest. And will refer to the 10th article of the amendments to the Constitution, which declares that Congress has none but granted powers.

Mr. Chairman, I will conclude this branch of the argument by calling the attention of the committee to the supposition that it had been proposed in the Convention that framed the Constitution, and recommended it to the people of the States for their adoption, that no slave territory should ever be acquired under it, and that no slave State should ever enter the Union; and that the ten miles square authorized to be purchased as the seat of Government should be used as a hot-house in which to force the growth of abolition; and that the clause in reference to fugitive slaves was inserted in fraud, and would not be executed; and that the non-slaveholding States, by the action of their Legislatures, would make it a dead letter. I ask, sir, if such propositions had been made in the Convention, or submitted to the States, would they have received one single southern vote? or would the Constitution have been adopted? Then, sir, if the Constitution could not have been adopted containing such provisions, is it not palpable that no such provisions were in it at the time of its adoption? I know no better way of ascertaining what wise men have done than to ascertain what they intended to do. The intention of the parties to a treaty, covenant, or other contract, is always an important matter to be ascertained in view of obtaining a right construction of the instrument. The intention of the legislator is always looked to in the construction of a law when doubt arises as to the true construction. Now, sir, let us subject the claims of the North to this test, and they cannot stand one moment. We all know that the Constitution never could have existed containing such provisions; and, notwithstanding this, there are men here, and elsewhere, who claim this power for the Federal Government. Nothing can equal the absurdity of this claim but its gross and palpable injustice. Yes, sir, even admitting the constitutional power to be in Congress to do what I fear will be done, the act would then be no better than highway robbery. And I have heard nothing said in its vindication, either here or elsewhere, except a certain fashionable cant about all men being born free and equal, and the power of majorities. Now, sir, I have great respect for the action of such majorities as are prescribed by laws and constitutions, but I had rather have any

other king than king numbers, as now presented to our acceptance. The most frightful despotism upon earth would be that of an uncontrolled, unchecked, sectional majority. It would make ours a government without limitation of powers—a great sectional despotism. I am aware that much is said about the rights of majorities, and that many politicians speak of majorities as subjects do of their monarchs—as though they could do no wrong. But majorities may be wrong as well as minorities, and majorities have no other rights than such as they derive from the Constitution. Minorities have the same rights, derived from the same source. All our majorities for the practical purposes of legislation are constitutional majorities, and not mere majorities in numbers. And this is the crowning beauty and excellence in our systems of free governments; that is, that ours are governments of constitutions and laws, and not of men—no, not even of majorities of free men. All are in subordination to law, and all have the protection of the law, minorities as well as majorities. While the guarantees of the Constitution are respected, a minority has the same protection in life, liberty, and property as if they were a majority. The law does and ought to act alike upon every citizen.

Mr. Chairman, I would warn our friends here to be cautious in relation to the claims set up for mere numbers, without proper regard to the Constitution. The idea is full of danger, as was illustrated in the horrors of the Reign of Terror in France, which was simply the reign of an unchecked majority. In these days of progress, there is danger that the rights of minorities may be lost sight of, in the assumptions of majorities; and that the greatest good of the greatest number may become the rule of action, without reference to the law or Constitution. This is the language of demagogues. The language of the Constitution is, the greatest good to the greatest number, without injustice to any, and in subordination of the Constitution. This is what we ask of you, and this is what you refuse to us. For the purpose of illustrating the claims of the South, I will suppose a case of three men who have been acting as partners for ten years, and at the end of that time, they meet together to arrange their business and divide their profits, when, to the astonishment of one of the three, he finds that the other two have united against him, and determined to take all the profits to themselves, though he had given his time, his labor and his money to the firm, as faithfully as either of his partners: would you expect the third man, who had been thus treated, to remain in the firm, and more especially when he was told that, for the future, he would be expected to labor as usual, and to contribute his money, but was to expect no better treatment? This is a case precisely analogous to the situation of the southern States. They jointly, with their co-States, have acquired territory by contributions of blood and treasure, and now they are to be excluded from those territories, and are not, for the future, to expect any better treatment; for I understand that hereafter the policy of the North is to be, that the whole power of this Government is to be exercised against the institution of slavery; in other words, the South and her institutions are to be put under the ban of the empire, and we are to be made the hewers of wood and drawers of water. We are expected to share all the burdens of Government, while we are to be permitted none of its benefits. Do you ex-

pect a proud and chivalrous people to submit to treatment like this? If you do, you will be disappointed. By way of illustration, I will reverse the case, and suppose the South to assume the ground that hereafter no free State should enter this Union, and that all the territory acquired should be slave territory, and that the whole power of this Government should be exerted for the extension of slavery, and that the free States should be put under the ban, and that the whole influence of this Government should be brought to bear against the free States and their institutions. You would think us mad if we were to assume such a position. But it is a bad rule that won't work both ways; and I defy any man on earth to show one good reason why our pretension would not have the same foundation in right, as yours. We are your equals under the Constitution, and in every other respect. The Constitution says, "the citizens of each State shall be entitled to all the privileges and immunities of the citizens of the several States." If you would submit to such treatment, you ought to be kicked out of the Union, as unworthy to remain in it. The same may be said in relation to the South, only I can assure you, she will not wait to be kicked out. Many here, and elsewhere, appear to have a holy horror of the institution of slavery, as though it was now heard of for the first time, in the history of our country or the world. They forget that their fathers sold us most of these very slaves, and guaranteed our rights of property in them, under the Constitution, for a consideration which has been paid. Some of the very negroes that your fathers sold us, are still living; and, though they are removed one thousand miles from you, they trouble you over-much. Your conduct puts me in mind of the Pharisee, of whom we are told, that when he stood in the Temple and prayed, he thanked God that he was not as other men—not as the poor Publican who was before him. I suppose many of you thank God that you are not as we slaveholders; and I suppose some of you, in the spirit of the Pharisee, even when you look upon the portrait of Washington which hangs upon my left, the ornament and the honor of this hall, thank God that you are not such as he was, for he, too, was a slaveholder. But he was first in war, first in peace, and first in the hearts of his countrymen. Yes, sir, he led your armies in battle—he led them to victory and glory. He founded an empire, and will through all time be known as the Father of his Country. But strange to tell, so great has been the progress of some in this progressive age, that his memory was traduced by one of the leading speakers in the late Abolition convention at Syracuse, New York. In this convention the Union was denounced—the Constitution was denounced, and the memories of Washington, Jefferson, and Madison, were traduced because they were slaveholders. Are not these men mad? They are either mad or worse; they are traitors to all the glories of the past and all the hopes of the future. I know that some men are fanatics on this subject, and are possessed with a piety so transcendental that they fear that they may be offered up as a vicarious atonement for the sins of the South. But I think I can venture to give such the assurance, that the sin (if sin it be) is our sin, and that it is in vain that they trouble their consciences with it, and that they are not responsible for the matter by any law, either human or divine; and I think that if God has borne with us for two hundred years, and has made

us the most prosperous and happy people upon the earth, that they might also bear with us, particularly as they or their ancestors assisted to fix the institution upon us.

Mr. Chairman, there is one thing that I can say on this subject in vindication of the South, and it is this: that 3,000,000 of the negro race have never before, in any portion of the recorded history of man, been as much civilized or christianized as those now in the United States. And I would say, that any man who will attend the church service, and witness the christian piety of a congregation of slaves, will be compelled to admit that African slavery has not been an unmitigated evil, even to the slave. And if he has one particle of christian faith or christian hope in his heart, when he compares the present position of the negro with that of the barbarian idolater and cannibal in Africa, he will be constrained to say, that God may have had, and must have had some compensating providence in store for this people, and that slavery is the probationary state preparatory to it. What this may be, no man can tell—"God's ways are not as our ways, nor his thoughts as our thoughts."

There are many who suppose that slavery is a social and political evil, and for this reason they refuse to let it go to the territories. But if it were the evil which they insist it is, why shall the whole burden of it be thrown upon the present slaveholding States? Why not let the new States take their share of it? In what are they better than we? If this was a new question, as to the introduction of slavery into the United States, I could understand the zeal of the North as reconcilable with principles of patriotism and honesty—but we do not propose to make any freeman a slave; nor do we propose to open the African slave trade. No, nothing of this kind is sought to be done. All that we ask is, that the master, with his slave, may be permitted to enter the common territory of the Union. We ask it, from the conviction that it would be better for both. It would certainly be better for the slave, as he is better provided for in a new and abundant country than in an old and exhausted one. Also, the dividing of the slaves into many hands would add to their comfort and the facility of their final emancipation; especially if New Mexico and California are not suited to slave labor. If this be true, every slave carried there would soon become a free man. In some of the slave States the negro population is as large as the white. While this state of things continues, emancipation in these States is morally impossible. Under such circumstances, it would of necessity result in social and political equality. And even our northern friends have yet some prejudices on the subject of color. I see that in the good old Bay State there is even now a struggle going on to keep the negro children out of the common schools. And I presume those of you who have families have some prejudices of color in your parlors; and Cuffy is not even there on a footing with the descendant of the Puritan. I suppose that the descendant of the Huguenot and Cavalier may be allowed the same prejudices.

Mr. Chairman, there is one view of this subject which has always struck me with some surprise, and has constrained me to doubt the sincerity of the abolition movement as a measure of philanthropy. It is this: I never hear of the Abolitionists, Free Soilers or Wilmot provisoists paying anything to the cause of negro emancipation—I have heard of few cases in which they have ever purchased the freedom of a slave. Now, if they are sincere in this matter, it would not cost them any more to emancipate my slaves than it would cost me. And really, if they are in earnest, why do they not buy the freedom of the slaves, and take them to their homes and minister unto them? This would at least show honesty and sincerity, and their works would illustrate their faith. I have never had much faith in those who talk much of charity, but never give. You propose to destroy \$1,500,000,000 of our property, while you do not give a dime to the same object yourselves. It might from this be inferred that most of your philanthropy was intended for home consumption, and to keep your seats here. It is with small men a convenient means of temporary advancement; and with ambitious and bad men it is a means of personal and sectional aggrandizement. You are the worst enemy the slave has on earth. You rivet and tighten the institution of slavery at the South, that it entered into competition with the free labor of the North, and, therefore, must be abolished. This is agrarianism. It is confiscating the estates of one-half of the people of this Union for the benefit of the other half. And permit me, in this connection, to suggest to my friends of the North, that when they have gotten through with this negro agrarianism, and the agrarianism that is going on in relation to the public land, that the next move may be real *bona fide* agrarianism at home. The idea that all men are born free and equal, is a very pretty one, and I suppose that equality in property is about as desirable as equality in political rights; and as much political equality could be made out of this idea, as most of the other hum-

bugs of the day, and I suppose it might be made to meet the ideas of the foreign emigrants who are arriving by hundreds of thousands in our northern cities, and for whose votes so many political aspirants appear to be most anxious. The idea of every man having his own independent estate, sufficient for every comfort, would be very taking.

Mr. Chairman, one of the evils of the times is, that politicians and demagogues and fanatics seize hold of some single idea, some abstract truth, and, separating it from all its natural connections, attempt to substitute it for an entire system of governmental policy. If honest, they are mono-maniacs. They threaten to subvert the very foundations of all government in pursuit of a single idea. In pursuit of an abstraction, they lose sight of all the practical benefits of good government. They forget that we have to take the world as we find it—and not as the transcendentalist would have it. The real philanthropist would desire that there should be neither a name nor a place for crime or misery among all the works of God. But if he were a Christian, he would not condemn the whole system of God's providence because it did not conform to his views. I would suggest to our transcendental and perfectibility friends, to do likewise. Our systems of government, I may not, in their view, be perfect; but they were framed by men greater, wiser, better than ourselves, and, heretofore, have answered the purpose for which they were intended. Our government (in the language of the Constitution) was created in order "to form a more perfect union, to establish justice, insure domestic tranquillity, to provide for the common defence, to promote the general welfare, and to secure the blessings of liberty to ourselves and our posterity." It has done all this, notwithstanding its guarantee and recognition of the institutions of the South. It will continue to do so, if you respect its compromises—otherwise it must fail, and this Union must perish.

I would ask our northern friends, Mr. Chairman, before separating from us, to calculate what we are worth to them. To the North this Union is indeed a pearl beyond price—it is worth more than all the political capital you can make out of this abolition agitation. And I say to you in all candor, that you must relinquish the one or the other. The capital invested in abolition and free-soilism is but small in amount—it is rather a peddling business, and though its discontinuance might break many a small trader in politics, I suppose our Whig friends over the way would assist in passing a political bankrupt law, which would give you abolition on full confession and repentance. But, to be serious, sir, independent of all considerations of patriotism, I would urge our northern brethren to calculate in dollars and cents what this Union is worth to them. I would ask them to inquire who pays the taxes of this Government, and who receives them. I would ask the manufacturers of cotton, whence comes the raw material, and where is the manufactured article sold—and whence comes the protection of *seventy per cent.* upon all northern labor and capital? Who furnishes the freights for your shipping interest? Where do you find the profits of your commerce and navigation? Why have you the entire coasting trade? Yes, Mr. Chairman, this Union is known to the people of the North only by its blessings; to us of the South only by its burdens. When you come to pay the taxes of a separate government, we will see whether or not you will always vote to appropriate money, and to increase taxes. The Union is to you unalloyed good—every governmental tax is to you a bounty, and every burden a blessing. Without the Union your factories will rot down, and grass grow in your streets. Mr. Chairman, I will not discuss the question of the power of the South to maintain her independent existence against all comers. I will simply say that we would be stronger and richer than any people upon earth, with five numbers. Money is the snow of war, and this we would have in abundance, with lighter taxes than we now pay in times of profound peace. But this question ought not to be discussed. I will not discuss it. I trust it will never be necessary.

Mr. Chairman, some of the feeling of hostility which exists in reference to the South, is political, and ought not to be felt at least upon this side of the House. One ground of complaint is, that the South has had an undue proportion of the high offices of this Government. For instance, we have had most of the Presidents. Now, ought it to be cause of complaint against us, or jealousy towards us, that Washington, Madison, Monroe, Jackson, and Polk, were southern men? No! they were great and glorious names, and we all should be proud of them as our countrymen. But, Mr. Chairman, the true cause of the South having held many of the important offices has not been in

consequence of sectional feeling, but it has arisen from the fact, that from the days of Washington until now, the strength of the Democratic party has been in the South, and elections have turned upon Democratic principles, and our victories have by us always been esteemed triumphs of principle and not of section. I trust the time will never come, when on questions of this character we will love our section more than our principles or our common country.

Washington, sir, in his Farewell Address, has warned us against "the impostures of pretended patriotism, and the mischiefs of foreign intrigue." I have already spoken to you of the one, I will now briefly refer to the other. I will not say that I have the evidence of such intrigue, but this I will say, that the Abolition and Free Soil movement is doing that which, of all things earthly, is most desired by all the despots of Europe. They look upon our institutions with jealousy, and would be greatly pleased at their destruction; and I presume that no man here entertains a doubt that this agitation threatens to bring about a dissolution of the Union. England knows and fears our naval and commercial rivalry, and nothing but the dissolution of this Union can save to her the ascendancy. With the Union, we will not only rival but surpass her; with the dissolution of the Union, her commerce must remain unrivalled, and through all time she may ride mistress of the seas. As I before said, I have no evidence of her agency—that of course I never can have because to be efficient it must be secret. Neither you nor I know but that her paid secret agents are in our midst. This work is done so precisely agreeable to what I know would be her wishes and her interest, that it naturally suggests the idea that it may be done to order. Further, this idea of Canadian annexation, which was agitated in the Legislature of New York but a few days since, and which has, until lately, been rather countenanced by the English Government, comes most opportunely to excite the further alarm of the South, more especially when it is sought by the Empire State for purposes of aggression. I have, too, been surprised at the amount of money that has been expended, and is still ready to be expended, in the attempt to revolutionize Cuba, with a view to annexation. I do not know that England has anything to do with it, but I do know, that she is the party to be benefited, if these agitations should bring about a dissolution of the Union. I further know that England always sees her interest, and never omits the means of advancing it. Her statesmanship is the most far-sighted and grasping, and she never loses an opportunity of advancing either her interest or her power.

Mr. Chairman, in this discussion I have endeavored to be candid. I have stated my convictions as they exist upon my own mind. I hope others will fairly weigh them, and take them for whatever they may be worth. The time allowed in this house is too short to discuss the legal question, either from authority or by reference to precedents. I have consequently taken the Constitution as my guide, and have looked into it for my political faith, as I would into my Bible for my religious. When I took my seat here, I took an oath to preserve, protect, and defend the Constitution. To do this in the right spirit, we must look to the instrument itself—and let precedent and authority have no influence with us, but as simple matter of reason. Our oath is to support the Constitution as our fathers made it, and not as either courts or congresses have construed it. If this course is adopted, even the very few arguments I have used are enough. If you take any other course, the Constitution is but waste paper, and the sooner you burn it up the better. I admit the authority of precedent in matters of judicial decisions of private rights, but not in the action of coordinate departments of governments. We have no infallible church, nor have we an infallible court—nor should the decisions of one Congress bind the consciences of another.

Mr. Chairman, I will now close my remarks, as I opened them, by invoking the serious attention of this House and this nation to the danger which menaces our free and glorious institutions. On every side and from every quarter of the Union I hear the reverberations of this danger, which, to use the language of Mr. Jefferson on a similar occasion, "falls upon my ear like the alarm of the fire-bell at night—like the knell of the Union." Yes, sir, I warn you, and through you this House and this nation, that the ship of State approaches the dreadful mad-storm of Disunion. She already feels and answers to its circling currents. It is true that every hand was upon deck, and that every sail was set. Yes, we approach the whirlpool—the sails are rending, the masts are shivering. Cast out the anchor, the anchor of the Constitution; even yet it may take hold upon the minds and the hearts of the people, and save the ship; which that God may grant, should be the prayer of every heart.





